



State of Delaware
Clean Water Advisory Council
5 E. Reed Street, Suite 200
Dover, Delaware 19901

Telephone: (302) 739-9941
FAX: (302) 739-2137

Minutes of the 87th Meeting

November 17, 2008

The Delaware Clean Water Advisory Council met Monday, November 17, 2008 at 9:00 a.m., at the Outlook at Duncan Center, 500 Loockerman Street – 5th Fl, Dover, Delaware.

MEMBERS PRESENT:

Roger Roy, Chairman
Jeff Bross, Vice-Chairman
Lee Beetschen
Gary Burcham
Andy Burger
Andrew Manus
Hans Medlarz
Chris O'Keefe
Robert Stickels

OTHERS PRESENT WERE:

Terry Deputy, Division of Water Resources
Daisy Lopez, Division of Water Resources
Frank Piorko, Division of Soil and Water Conservation
Jennifer Campagnini, Division of Soil and Water Conservation
Greg Pope, Division of Water Resources
Kathy Bunting-Howarth, Division of Water Resources
Davison Mwale, Division of Water Resources
Oner Yucel, DBF-AMA
Kevin Donnelly, New Castle County Conservation District
Kathy Weldon, Division of Water Resources
Peder Hansen, Division of Water Resources
Greg Ferrese, City of Rehoboth Beach
Sam Cooper, City of Rehoboth Beach
David Athey, URS
Stan Mills, Commissioner of Rehoboth Beach
Erika Benner, Controller Generals Office
Laura Kaufmann, McCrane, Inc
Ken Branner, Artesian Water
Dave Schepens, Division of Water Resources

Bob Zimmerman, DNREC Office of the Secretary
Mike Rhode, DNREC
Stu Lindner, Artesian Water
Dell Tush, Dewey Beach
Gerard Esposito, Tidewater
Dennis O'Shea, DelDOT
Hugo Dreibelbis, DelDOT
John Ashman, Sussex County
Mike Izzo, Sussex County
Jeff James, Sussex County
Jon Husband, New Castle County
Tracy Surles, New Castle County
Rodney Wyatt, Artesian Water

CALL TO ORDER

The meeting came to order at 9:10 a.m.

APPROVAL OF THE AGENDA

Agenda approved unanimously.

APPROVAL OF MINUTES – Council Meeting Held on August 20, 2008

Minutes approved unanimously.

INTRODUCTIONS

Introductions made by everyone present.

Mr. Deputy introduced Mr. Davison Mwale as the new Engineer IV hired in the Financial Assistance Branch office. He also stated that Mr. Pope was promoted to an Engineer VI and the Engineer IV position vacated by Mr. Pope has been requested to be filled.

REPORTS

ADMINISTRATORS' REPORT

A. Clean Water

CWSRF Project Status Update

The Millville Expansion, Bethany Beach Sanitary Sewer District Contract B project is 93% completed; the Seaford Lift Station upgrade is 25% complete; the Hartly Sanitary Sewer district design is 90% complete and the project bid is set for January 2009; the Wilmington Combined Sewer Overflow Real Time Control Project State and Tribal Assistance Grant application and Environmental Review has been approved by DNREC and submitted to the Environmental Protection Agency.

Financial Reports

Sussex County Angola Neck SSD has a pending loan closing for \$15 Million in Water Pollution Control Revolving Loan fund (WPCRLF) and in \$1.5 million 21st Century Fund Grant. Closing is scheduled for November 21st.

On the FY 2009 Project Priority List loan applications solicited, there were 5 communities and 11 Wastewater projects estimated at a total request of \$66 million. Loan applications are due by November 28, 2008, and municipalities should be ready to sign a binding commitment letter by April 30, 2009.

Mr. Roy asked by when the applications need to be approved. Mr. Deputy stated that they need to be received by November 28th at which time they will be reviewed from a financial and environmental standpoint. The projects will be presented at a Council meeting which will be held prior to April 30th. They are projects that are currently on the 2009 PPL.

Mr. Medlarz asked if these projects have to be on the final design stage. Mr. Deputy stated that the projects need to be at least 30% completed in the design phase. He stated that these projects have been on the list for the past year.

Mr. Medlarz expressed concern that 120 days after Binding Commitment will not be enough time to get the required permits. Mr. Deputy stated that he met with Sussex County and they indicated that they can meet the deadlines. A signed Binding Commitment will have a life of 120 days. The intent is for municipalities to use this time to obtain necessary permits and complete the project bidding process. The 120 day standard can be extended for good reason if the municipality is making progress toward loan closing.

Three of five municipalities on the 2009 PPL have indicated that they will submit loan application totaling \$16.74 million. Total requested project assistance on the 2009 PPL was \$66 million, however, after contacting and meeting with municipalities, the actual request was for \$16.74 million.

The Water Pollution Control Revolving Fund (WPCRF) financial report for the month ending November, 2008 was the following:

• Cap. Grant + State Match – Admin.	\$147.88 million
• SRF Loan Repayments	\$ 43.17 million
• Investment Interest	<u>\$ 7.98 million</u>
Total Funds	\$199.04 million
• Total Approved Loans Dollars	
○ Municipal	\$150.72 million
○ NPS Loans	<u>\$ 10.96 million</u>
	\$161.86 million
• Balance Available for New Loans	\$ 37.35 million

Mr. Beetschen asked if there is a surplus in the Administrative funds from the capitalization grants each year. Mr. Deputy stated that this administrative fund is 4% of capitalizations grants received, there is no surplus associated with the administrative funds from the grants.

Mr. Deputy presented the Council with a cash flow summary spreadsheet showing the Grants awards, state match, loan disbursements, and funds available from FY 1990 through FY 2008, and projections for FY 2009 through FY 2014.

In the 21st Century Fund in the Water/Wastewater Management there are \$0 in the Infrastructure Planning Account; \$2 million in the Wastewater Management Account; \$845,702 in Clean Water State Match for total available funds of \$2.84 million.

B. Surface Water

The Surface Water unit was assigned an Engineer position by the Governor Task Force. The position was designed to provide technical assistance for the Council and to DNREC to assist in watershed planning and modeling projects. They were not successful in filling the position and will lose that position due to budgetary constraints.

Sussex Level of Service Final Report

There will be a hard copy for the Council and an electronic copy of the final report will be available on the Surface Water website. The average expenditure for surface water programs in Sussex County is \$9+ million and a recommendation for moderate level of program improvement was an additional \$9 million.

Kent County Level of Service Status

The timeframe to complete this project is set for early 2009. They have been working with Mr. Medlarz, Kent County, the Kent County Conservation District, Mr. Dave Athey, and DelDOT to put together similar numbers and operational cost.

New Castle County Stormwater Utility Planning Project Status

There was a handout given to the Council on accomplishments as of October 16th. This project is three quarter percent completed. There will be a meeting after the 1st of the year to discuss a path forward and come up with a comprehensive strategy state-wide.

SUBCOMMITTEES' REPORTS

A. Wastewater

The Wastewater subcommittee had a Wastewater Environment Research Foundation seminar where they were updated on the status of the investigation on NPDS for Management Concentration. This will be an issue brought to the Council in the future.

B. Surface Water Management

The Surface Water Management had two meetings since the last Council meeting in August to work on the transition document that will be presented to the Council at today's meeting.

C. Public Outreach

The Newsletter is in the final stages and will be available for distribution by the end of November.

D. Finance

The Finance subcommittee had a meeting on October 8th. At the meeting they discussed the WPCRLF Annual report; the WPCRLF audited financial statements and reports; proposed SEFO changes; a draft cash flow model, and loan delinquencies and defaults.

OLD BUSINESS

None

NEW BUSINESS

Draft Governor's CWSRF and Stormwater Transition Document

This document is an overview of the Clean Water SRF for Wastewater and Stormwater. The document includes a brief history of the CWSRF, project funding, wastewater and storm water future funding needs and recommendations for funding and support of the surface water infrastructure.

After reviewing and discussing the transition documents the following changes and corrections were recommended:

- On the two sided one page document under Conclusion – 3rd bullet – Delaware Clean Water Advisory Council have all support – change support to supported.
- On the two sided one page document under State funding - clarify the \$75 million which was total funding for state appropriated funding for a one-time cost related – will insert “flood damage and repair”.
- Under the 21st Century funding - add under \$71.7 million small cap improvement projects since 1996.
- Under the recommendations - add the storm water utility comment as agreed upon by the Surface Water subcommittee.
- On the specific level of service analysis for specific numbers on the surface water management.
- Under 21st Century Funding - add an additional bullet to include Federal estimated contributions.

Motion by Mr. Bross and seconded by Mr. Medlarz to approve this document with the recommended changes. Motion passed unanimously.

This document will be sent to Secretary Hughes to submit to the Governor elect.

Proposed SEFO Changes

The current Septic Rehabilitation Loan Program (SRLP) has been successful in helping individuals alleviate funding for failed septic systems. However, there are some individuals that do not qualify for an SRLP loan and don't have other sources for funding needs. The existing SEFO program offers loans, grants, and laterals which individuals have to qualify for by meeting the debt to income ratios, hardship grant components; and lateral funding.

The Financial Assistance Branch recommended that the SEFO program be changed to complement the SRLP program by changing it to a Due-on-Transfer program. There will be no monthly loan payments. The loan will be forgiven after 20 years. If the property is sold prior to 20 years, payment is required in full at the time the property is sold or transferred.

To qualify for the SEFO program you would have to be low to moderate income, you must apply for a SRLP loan and be denied; you must provide an explanation for the SRLP loan denial; and DNREC, Ground Water Management must provide the environment and/or health hardship documentation.

There were concerns and discussion on the impact to a loan if at some point connection to a sewer system would have to be done. It was recommended by the Council that the changes include criteria for sewer connections.

Motion by Mr. Bross and seconded by Mr. Burger and Mr. Stickels to approve the SEFO changes with the recommendation that the changes include sewer connections. Motion passed unanimously.

Draft CWAC 08 Long-Term Wastewater Facilities Funding Plan FY09-14

The Council is required to submit an annual report on the Wastewater Facilities funding for the next six years. There are \$301 million in current and future funding; \$195 million in loans that have been made; \$105 million in future funds available; and \$293 million in estimated project demand. There are \$76.12 million in 21st Century funds that have been used except for \$2 million. The proposal is that \$60 million will be needed over the next six years; \$4 million State match for Federal Capitalization Grants; \$2 million for Infrastructure Planning Revolving Loan fund that will be used as a short term loan for municipalities for planning and design; \$51 million to Supplement grants; and \$3 million for the SEFO program.

Motion by Mr. Burger and seconded by Mr. Stickels and Mr. Manus to approve the FY 09 – FY 14 Long Term Wastewater Facilities Funding Plan. Motion passed unanimously.

2008 WPCRLF Annual Report Overview

EPA requires a yearly Annual Report that describes the funding use of activities and the goals of the program. Included in the report were two municipal loans, the City of Seaford for \$1.62 million and the Town of Millsboro for \$3.77 million; a binding commitment for Sussex County Angola Neck for \$15 million; and 53 Expanded Use Loans closings for \$579,000.00.

In the report there were loan defaults in three of the loan programs. In the SRLP Program there are 9.10% in loan defaults in the amount of \$322,000.00; 45% will possibly not be recoverable. Some of the loans are three or four payments passed due and are being given to the Division of Revenue for collections. In the AgNPS Poultry Program 30.67% of the loans are delinquent for a total of \$440,459.00. The Financial Assistance office is working with the Delmarva Poultry Industry Association to assist in collecting the funds; 48.82% of the loans will possibly not be recoverable.

The Council had a discussion as to how the AgNPS program loans are secured. It was stated that the loans are secured depending on the type of item being financed. Front End Loaders are secured through a UCC Lien but the majority of the items financed are secured through a contract between the individual poultry growers and the integrator. If a contract is terminated between the grower and integrator, some of the growers will then cease all contact with the Financial Assistance office and stop making payments to the loan. On a monthly basis, the Financial Assistance office informs individuals if they are delinquent and attempt to collect on the loan.

2008 WPCRLF Audit Report and Findings

In FY 2008 the WPCRLF had a clean audit report. There were no audit findings and all prior year audit recommendations were complied with. They are moving forward with the report.

Rehoboth Beach Project Update

As presented at the August 20th Clean Water Advisory Council meeting, the City of Rehoboth Beach Board of Commissioners consists of the Mayor and six Commissioners. They have had a series of workshops and meetings at different times of the day to encourage public participation. Since August meetings were held in September to discuss permitting; coastal zone consistency review; update on the Request for Proposal (RFP); and to discuss different options.

Meetings were held in October to discuss public service commission; regulatory basis for elimination of the City's discharge; and coastal construction permitting requirements. There was a workshop held on November 1st where presenters and panel member from the City, County, the University of Delaware, and DNREC addressed comments, concerns and questions from the public.

There was one response to the RFP from Artesian for a concept plan. Agendas, Minutes and other information are available on the Rehoboth Beach's website: www.cityofrehoboth.com.

Rehoboth Beach Possible Project Costs and User Rates

At the August meeting, Mr. Karia, CWAC Member asked for an overview of the possible costs and user rates for the Rehoboth Beach Wastewater project. Information was gathered from the Stearns & Wheler 2005 report and it was estimated that the project would cost \$36 million. It is possible that USDA could fund half of the loan for 40 years versus 20 years. The annual debt service at 3.06% for 20 years would be \$2.4 million; the annual OMR cost would be \$418,000.00 for a total of \$2.8 million.

The Initiation of Operations and project Medium Household Income for 2012 would be \$72,000.00; the EDU's at Initiation of Operations for Residential is \$2,115; for Commercial is \$1,302 for a total of \$3,417. Residential share of total SRF loan annual cost at 62% is \$1.7 million; the projected annual residential cost per EDU is \$832.00; the existing annual rate per EDU is \$344.00 for a total of \$1,176. The affordability index per EDU is 1.63%.

Council Updates

There was a \$3.93 million cap grant awarded for the 2009 CWSRF. There is also a Continuing Resolutions awards from October through March for 2009 which would award addition money to the CWSRF. \$1.2 million is currently available at the present and another \$1.2 million will be available by March 2009.

A possible Stimulus Cap Grant is being proposed for \$6.5 billion in CWSRF allotment. There is \$31.94 million in cap grant which will not require state match funds with a possible principle forgiveness of up to 30% of the grant award. The Stimulus package will have the ability to draw down federal stimulus dollars first. The only drawback is that the package requires entering into a binding commitment. EPA is also considering providing some engineering help to process environmental reviews.

There will be three CWSRF 2010 PPL Notice-of-Intent workshop meetings held, one in each county to educate and inform municipalities and consulting engineers on the process for submitting applications for the 2010 Project Priority List. The dates are:

December 4 – New Castle County
December 11 – Kent County
December 18 – Sussex County

All the Council members are invited to attend one of the workshops.

The 2009 CWAC meeting dates are:

February 18, April 15, June 17, August 19, October 21, December 16.

PUBLIC COMMENT

Comment by Kathy Bunting-Howarth was made to remind the Council that they requested to have a February workshop on the Project Priority List criteria. There will be a workshop following the February Council meeting.

Comment by Commissioner Stan Mills was made indicating that per Mr. Schneider's presentation on the Rehoboth Beach update, the City of Rehoboth Beach has done a comprehensive review, beginning in June, of all the options available. He asked the Board of Commissioners if they wanted anymore presenters on the topic and they indicated that they will concentrate on identifying the viable alternatives available and determine what the next steps will be. He also stated that at a prior meeting it was discussed that the Council may have technical questions forwarded to Mr. Terry Martin, who was Acting Administrator for the Financial Assistance Branch at the time, and asked wondered if the Council had forwarded questions to Mr. Martin. Mr. Bross stated that the Council had decided to wait to see if they would need to fund some of the project.

GOOD OF THE COUNCIL

None

ADJOURNMENT

Next meeting will be held on December 17, 2008 at Del Tech, Stanton Campus beginning at 9:00 am. Mr. Roy stated that a workshop be held on February 18, 2009. Meeting adjourned at 11:00 am.